

BLEVINS

SCOTT BLEVINS

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED  
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ  
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ORAL DEPOSITION OF SCOTT BLEVINS  
Wednesday, May 3, 2006

The oral deposition of Scott Blevins was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 9:36 a.m. to 2:26 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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<p>10:24:55 1 They display one, and then they have backstock, so  10:24:58 2 we were trying to find out if they only had one --  10:25:01 3 Q Uh-huh.  10:25:02 4 A -- in a store or if they had 12 or  10:25:06 5 200.  10:25:06 6 Q Okay.  10:25:06 7 A That was the next step: Once they  10:25:09 8 had them, can we figure how many they had.  10:25:15 9 Q So in the first part of this first  10:25:18 10 wave, were your RACs calling back and saying they  10:25:23 11 had one?  10:25:24 12 A We didn't know how to figure out how  10:25:26 13 many they had until one -- one of them stumbled  10:25:29 14 upon a way to find out.  10:25:32 15 Q Okay. So this backstock technique  10:25:36 16 used by Costco was unknown to you before you  10:25:40 17 started sending people out?  10:25:41 18 A Right. We just knew they had one on  10:25:43 19 display.  10:25:43 20 Q Okay.  10:25:43 21 A And that's all you could see.  10:25:47 22 Q Okay.  10:25:48 23 MS. BRANNEN: If this isn't a  10:25:49 24 good time, in the next few minutes can we take a</p>	<p>10:38:45 1 beginning to figure out how many clubs were in a  10:38:48 2 given Costco?  10:38:49 3 A Yes. It's not easy to figure it out.  10:38:51 4 Q To get --  10:38:51 5 A You can walk into the warehouse.  10:38:53 6 Q It takes a little sleuthing?  10:38:56 7 A Yes.  10:38:56 8 Q So how did you deal with that issue?  10:38:59 9 A Eventually, we found that if you  10:39:01 10 could find the right person in the Costco, which  10:39:04 11 was tough to do because they don't have many  10:39:07 12 people servicing you when you're shopping the  10:39:09 13 store.  10:39:09 14 Q Right.  10:39:10 15 A You could ask for: Hey, I need to  10:39:14 16 buy 24 clubs or 48 of these. Do you have that  10:39:20 17 many? And they would say yes or no. And  10:39:23 18 occasionally, then, you could get them to walk you  10:39:26 19 over to the computer to see if they had clubs in  10:39:28 20 one of their neighboring stores.  10:39:30 21 Q Oh, I see.  10:39:31 22 A I only have 24, but there's 12 over  10:39:40 23 here.  10:39:40 24 Q And -- and your regional account</p>
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<p>10:25:52 1 break?  10:25:52 2 MR. MARA: We can take one  10:25:54 3 right now.  10:25:54 4 (A recess was taken from  10:25:54 5 10:25 to 10:37.)  10:25:54 6 (Off the record, the attorneys  10:25:54 7 stipulated to the Federal  10:37:58 8 Rules.)  10:37:58 9 Q (By Mr. Mara) Okay. Before the  10:38:03 10 break, we were talking about Costco and  10:38:14 11 backstocking. How did you figure it out or how  10:38:20 12 did you deal with it?  10:38:21 13 A With what specifically?  10:38:22 14 Q Correct me if I'm wrong, but I  10:38:25 15 believe you testified that Costco put one club out  10:38:28 16 on the sales floor?  10:38:29 17 A Right.  10:38:30 18 Q And I'm assuming would have stock in  10:38:31 19 a back room?  10:38:32 20 A Right.  10:38:33 21 Q So it was physically in the Costco  10:38:35 22 store, it just wasn't on the sales floor?  10:38:39 23 A Correct.  10:38:40 24 Q And that stymied your efforts in the</p>	<p>10:39:45 1 coordinators, did they inquire as to whether or  10:39:49 2 not those inventory levels reflected on the Costco  10:39:53 3 computer were current and accurate? I can't -- it  10:39:58 4 was just an informal. Thank you?  10:40:00 5 A Yes.  10:40:10 6 Q Just one moment. Again, I'm just  10:40:12 7 trying to keep a running tally.  10:40:14 8 Okay. What -- how else did  10:40:19 9 this Blevins group work?  10:40:22 10 MS. BRANNEN: I'm going to  10:40:23 11 object to the "Blevins group work." Can we go  10:40:27 12 back to the investigatory team? That's kind of  10:40:30 13 vague to me.  10:40:31 14 MR. MARA: I'm using it --  10:40:34 15 investigatory is too hard to say. That's the only  10:40:34 16 reason I'm calling it the Blevins group. What --  10:40:38 17 the Costco --  10:40:38 18 MR. McEVOY: Can we call them  10:40:40 19 the regional account --  10:40:42 20 MR. MARA: Okay. The regional  10:40:44 21 account group.  10:40:44 22 MS. BRANNEN: Corrodinators.  10:40:45 23 THE WITNESS: I just want to  10:40:46 24 make sure everyone understands that it was not a</p>

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<p>10:40:49 1 formal team put together to go identify this</p> <p>10:40:51 2 Q (By Mr. Mara) Understood.</p> <p>10:40:51 3 A It was my folks already in place,</p> <p>10:40:54 4 just you've got them -- you've got people where</p> <p>10:40:57 5 they've got a lot of stores --</p> <p>10:40:59 6 Q Right</p> <p>10:40:59 7 A -- figure it out. And he did. So it</p> <p>10:41:02 8 was a natural, I guess, that I should try to</p> <p>10:41:04 9 figure it out if I've got people out there</p> <p>10:41:06 10 Q Sure.</p> <p>10:41:07 11 A It wasn't a specific formed team</p> <p>10:41:10 12 of -- that that's all we did.</p> <p>10:41:11 13 Q Understood.</p> <p>10:41:11 14 A We still had, you know, a number of</p> <p>10:41:13 15 other things on our plate that we had to get</p> <p>10:41:15 16 done --</p> <p>10:41:16 17 Q Right.</p> <p>10:41:16 18 A -- and make sure stores were</p> <p>10:41:19 19 merchandised and check competition, which was, you</p> <p>10:41:22 20 know, tough at the time, so --</p> <p>10:41:24 21 Q Right. So we'll call it the Costco</p> <p>10:41:29 22 group, for purposes of this deposition only and</p> <p>10:41:31 23 it's just referring to anyone who participated in</p> <p>10:41:35 24 this effort to figure out --</p>	<p>10:42:28 1 Can you help me?</p> <p>10:42:28 2 A Correct.</p> <p>10:42:29 3 Q Did the investigation take any form</p> <p>10:42:31 4 beyond that at any point or was that it?</p> <p>10:42:34 5 A That was it for my group.</p> <p>10:42:44 6 Q Okay. Do you know if any other</p> <p>10:42:45 7 people within Adams were conducting similar</p> <p>10:42:50 8 investigations or efforts?</p> <p>10:42:51 9 A I don't recall. I don't know.</p> <p>10:42:52 10 Q Do you know if anyone at Adams or --</p> <p>10:42:54 11 do you know if anyone at Adams was investigating</p> <p>10:43:01 12 suspected gray marketers other than Costco at the</p> <p>10:43:03 13 time that your RACs were investigating Costco?</p> <p>10:43:14 14 A Not that I could recall.</p> <p>10:43:22 15 Q I believe you testified the reporting</p> <p>10:43:27 16 structure -- I'm using that loosely. I know you</p> <p>10:43:30 17 didn't say it was structured. But the reporting</p> <p>10:43:34 18 mechanism was simply for your RAC basically to</p> <p>10:43:37 19 walk out of the Costco, call you from the car --</p> <p>10:43:39 20 A Correct.</p> <p>10:43:39 21 Q -- and say: Here's what I just found</p> <p>10:43:41 22 out --</p> <p>10:43:42 23 A Correct.</p> <p>10:43:42 24 Q -- in Anytown, USA?</p>
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<p>10:41:37 1 MS. BRANNEN: Can we not just</p> <p>10:41:38 2 go with the RACs?</p> <p>10:41:42 3 MR. MARA: That's fine, the</p> <p>10:41:45 4 RACs.</p> <p>10:41:45 5 MS. BRANNEN: Is that right?</p> <p>10:41:46 6 Doesn't that cover everybody?</p> <p>10:41:46 7 THE WITNESS: That's right.</p> <p>10:41:46 8 There was never a formal group.</p> <p>10:41:49 9 MR. MARA: I didn't for a</p> <p>10:41:50 10 moment think it was.</p> <p>10:41:52 11 Q (By Mr. Mara) So the RACs. Okay.</p> <p>10:41:54 12 What else did the RACs do to</p> <p>10:41:57 13 investigate this problem?</p> <p>10:42:03 14 A That's about it.</p> <p>10:42:04 15 Q Okay. Did there ever come a time</p> <p>10:42:11 16 when the investigatory relationship with Costco</p> <p>10:42:15 17 became more formal?</p> <p>10:42:17 18 MS. BRANNEN: I'm going to</p> <p>10:42:18 19 object. That's vague and ambiguous.</p> <p>10:42:21 20 Q (By Mr. Mara) Was there ever a</p> <p>10:42:22 21 time -- you've described the effort so far as</p> <p>10:42:24 22 really just walking into the store --</p> <p>10:42:25 23 A Right.</p> <p>10:42:26 24 Q -- getting a salesperson and saying:</p>	<p>10:43:44 1 A Right.</p> <p>10:43:45 2 Q Was there a time that that reporting</p> <p>10:43:47 3 structure became more formalized, or did it remain</p> <p>10:43:50 4 that way throughout the RACs' efforts?</p> <p>10:43:55 5 A It wasn't any formal than that. Like</p> <p>10:43:59 6 I said, they could fax it. If you knew your store</p> <p>10:44:03 7 list and you had your best guesstimate on numbers,</p> <p>10:44:08 8 you could fax it in.</p> <p>10:44:09 9 Q When -- how often did you report</p> <p>10:44:11 10 to -- strike that.</p> <p>10:44:11 11 Who did you report to as it --</p> <p>10:44:14 12 A At what time?</p> <p>10:44:15 13 Q -- as it relates to the efforts of</p> <p>10:44:17 14 your RACs to deal with the Costco problem?</p> <p>10:44:21 15 A It would have been Chip.</p> <p>10:44:22 16 Q Okay. Did you report to anyone else</p> <p>10:44:25 17 about the RACs' efforts?</p> <p>10:44:28 18 A No.</p> <p>10:44:28 19 Q How often did you report to Chip?</p> <p>10:44:33 20 A There was nothing structured set up,</p> <p>10:44:35 21 so we probably spoke about it every few days, if I</p> <p>10:44:39 22 had new information.</p> <p>10:44:45 23 Q Did you draft any reports or</p> <p>10:44:47 24 memoranda to Chip about the -- the efforts of your</p>

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<p>10:44:51 1 RACs related to Costco?</p> <p>10:44:54 2 A Not that I recall. I think I recall</p> <p>10:44:56 3 showing him the numbers and the stores, and I may</p> <p>10:45:02 4 have drafted a note or two --</p> <p>10:45:04 5 Q Okay.</p> <p>10:45:04 6 A -- but I can't remember</p> <p>10:45:10 7 Q Other than Chip, did you talk about</p> <p>10:45:16 8 the efforts of the RACs with anyone else at Adams,</p> <p>10:45:26 9 other than the RACs? I mean -- by that I mean</p> <p>10:45:26 10 Adams management.</p> <p>10:45:26 11 A So Mark -- Mark -- well, at the time,</p> <p>10:45:26 12 I guess he wouldn't have even been there, so I</p> <p>10:45:28 13 doubt it</p> <p>10:45:35 14 Q So then specifically, you never</p> <p>10:45:38 15 discussed it with Darl Hatfield?</p> <p>10:45:43 16 A Not that I can recall.</p> <p>10:45:44 17 Q Okay. Or Jim Farrell?</p> <p>10:45:50 18 A I don't recall having many</p> <p>10:45:51 19 conversations with Jim.</p> <p>10:45:54 20 Q The efforts by the RACs related to</p> <p>10:46:00 21 the Costco problem, were they the subject at any</p> <p>10:46:05 22 staff meetings?</p> <p>10:46:06 23 A I didn't attend many because I was on</p> <p>10:46:08 24 the road --</p>	<p>10:47:23 1 A Probably because I could never find</p> <p>10:47:26 2 any real information on it</p> <p>10:47:32 3 Q And what do you mean by "real</p> <p>10:47:33 4 information"?</p> <p>10:47:34 5 A I couldn't track where the clubs came</p> <p>10:47:39 6 from. I -- we had identified what stores had</p> <p>10:47:41 7 them, and we knew approximately the number of</p> <p>10:47:46 8 clubs in those stores, and then I ran through any</p> <p>10:47:50 9 reports I could find to try to see how the</p> <p>10:47:55 10 quantities could have ended up there, and at the</p> <p>10:47:57 11 end of the day, it was like finding a needle in a</p> <p>10:48:00 12 haystack. We had sold so many clubs, I</p> <p>10:48:03 13 couldn't -- there was nothing else for me to do.</p> <p>10:48:05 14 I didn't know what to do</p> <p>10:48:07 15 Q Did you -- during the course of the</p> <p>10:48:09 16 investigation by the RACs, did you discuss</p> <p>10:48:17 17 methods, alternative methods to run the</p> <p>10:48:19 18 investigation with Chip? I mean, you were running</p> <p>10:48:24 19 the investigation as you've described. Were any</p> <p>10:48:26 20 other alternatives to that form of investigation</p> <p>10:48:29 21 considered?</p> <p>10:48:30 22 A Not that I know of. I don't know</p> <p>10:48:31 23 what else we could have done</p> <p>10:48:32 24 Q Around Thanksgiving of 1998, did you</p>
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<p>10:46:08 1 Q Right.</p> <p>10:46:08 2 A -- but I'm assuming since it was an</p> <p>10:46:11 3 item at one point in time in the staff meetings</p> <p>10:46:13 4 that it was followed up on in some way, shape, or</p> <p>10:46:16 5 form, but I don't know that for sure.</p> <p>10:46:22 6 Q The investigation by the RACs, how</p> <p>10:46:32 7 long did it last?</p> <p>10:46:33 8 A In total?</p> <p>10:46:34 9 Q Yeah. From --</p> <p>10:46:35 10 A From the time --</p> <p>10:46:36 11 Q I believe we said it would have</p> <p>10:46:38 12 started -- didn't we say late October, early</p> <p>10:46:42 13 November of '98? The record will speak --</p> <p>10:46:45 14 A Sometime in October it started.</p> <p>10:46:47 15 Q Yeah.</p> <p>10:46:48 16 A And you know, as I recall,</p> <p>10:46:54 17 Thanksgivingish time frame, I don't remember doing</p> <p>10:46:56 18 anything with it the following year.</p> <p>10:47:00 19 Q Okay.</p> <p>10:47:00 20 A So it must have been</p> <p>10:47:04 21 Thanksgivingish --</p> <p>10:47:05 22 Q Okay.</p> <p>10:47:05 23 A -- of '98</p> <p>10:47:14 24 Q Why did it stop?</p>	<p>10:48:43 1 wrap up the investigation by the RACs with any</p> <p>10:48:48 2 formal report?</p> <p>10:48:51 3 A I don't believe so.</p> <p>10:48:55 4 Q Did you orally wrap it up with Chip</p> <p>10:48:57 5 Brewer? Was there ever a final -- I'm sorry.</p> <p>10:49:00 6 Strike that. It's a multiple question.</p> <p>10:49:03 7 How did the investigation by</p> <p>10:49:05 8 the RACs end? Did Chip Brewer say: That's</p> <p>10:49:10 9 enough?</p> <p>10:49:11 10 A I don't think so. I think the -- I</p> <p>10:49:13 11 don't recall why it ended or how or him ever</p> <p>10:49:17 12 saying to stop looking at the stores. We had just</p> <p>10:49:21 13 moved on at that point, probably.</p> <p>10:49:31 14 Q By the end of October when --</p> <p>10:49:34 15 approximately the time you were getting the</p> <p>10:49:36 16 investigation by the RACs going, had -- were the</p> <p>10:49:42 17 rumblings concerning Costco and/or gray marketing</p> <p>10:49:45 18 even louder still within Adams? Were you hearing</p> <p>10:49:48 19 about it more frequently?</p> <p>10:49:52 20 A I was hearing it more frequently</p> <p>10:49:53 21 because I was obviously researching it at the</p> <p>10:49:56 22 time, so I would hear it in passing from random,</p> <p>10:49:59 23 probably, in the sales group I would imagine is</p> <p>10:50:01 24 where I heard it.</p>

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<p>14:10:44 1 record.</p> <p>14:10:45 2 A Okay.</p> <p>14:10:46 3 Q One is: On Exhibit 63, this is the</p> <p>14:10:49 4 memo from Mark Gonsalves to you, to the RACs, to</p> <p>14:10:55 5 inside sales and Craig Parrish about Costco.</p> <p>14:10:58 6 Do you recall why -- why</p> <p>14:11:00 7 didn't you discuss the Costco issue with the RACs</p> <p>14:11:05 8 after Mark sent you this memo?</p> <p>14:11:10 9 A I can only speculate. At the time,</p> <p>14:11:13 10 it must not have been as -- we had a lot of other</p> <p>14:11:17 11 things to deal with in the field other than that,</p> <p>14:11:20 12 so it obviously didn't hit the radar as being a</p> <p>14:11:24 13 big enough issue to address at that point is my</p> <p>14:11:31 14 only assumption.</p> <p>14:11:31 15 Q What were some of those other issues</p> <p>14:11:35 16 you were dealing with in the field at the time?</p> <p>14:11:37 17 A In May, there were -- you know, the</p> <p>14:11:40 18 feedback that I got from the RACs, and then I saw</p> <p>14:11:44 19 our in the field, was Competitive Issue Number 1,</p> <p>14:11:48 20 the first and foremost in my mind, which was</p> <p>14:11:51 21 Orlimar. At the time, we were more concerned</p> <p>14:11:53 22 about what they were doing than anything else that</p> <p>14:12:03 23 I can recall because they essentially took what</p> <p>14:12:03 24 looked like our business plan and repeated it with</p>	<p>14:13:15 1 massive expansion of golf when Tiger Woods came</p> <p>14:13:19 2 onto the scene</p> <p>14:13:19 3 And it's pretty obvious to</p> <p>14:13:22 4 everyone that -- they've even dubbed it the Tiger</p> <p>14:13:25 5 Woods effect, that golf courses were built,</p> <p>14:13:27 6 retailers opened shops, franchises sold very well</p> <p>14:13:33 7 at the time Golf USA was in stores, and retailers</p> <p>14:13:36 8 were loading up on product in the end of '97 into</p> <p>14:13:40 9 '98 because Tiger Woods came onboard, and</p> <p>14:13:44 10 everybody thought that now that he's playing,</p> <p>14:13:46 11 every person on the planet was going to start</p> <p>14:13:48 12 playing golf, and it actually didn't happen</p> <p>14:13:52 13 Q So towards the end of '98, was that</p> <p>14:13:54 14 when this Tiger Woods effect came -- started to</p> <p>14:13:57 15 become apparent?</p> <p>14:13:59 16 A In hindsight, that's when it became</p> <p>14:14:01 17 an issue, because if you look back at -- Callaway,</p> <p>14:14:06 18 I think, was the only bellwether of the golf</p> <p>14:14:10 19 industry at the time. Their only stock traded --</p> <p>14:14:13 20 I think they called it out sometime in July or</p> <p>14:14:16 21 August in a press release when their stock price</p> <p>14:14:20 22 dove 30-some-odd percent in a day, and I think</p> <p>14:14:23 23 they were the first ones to say: Hey, we've got a</p> <p>14:14:27 24 problem. The industry has an issue.</p>
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<p>14:12:03 1 better product and had a club that had multi</p> <p>14:12:08 2 materials, where ours was steel only. So they had</p> <p>14:12:11 3 a sexier product, was selling it for more, maybe</p> <p>14:12:14 4 50 to \$100 more than ours was.</p> <p>14:12:17 5 So the retailers were making</p> <p>14:12:18 6 more margin. And we had heard several times from</p> <p>14:12:22 7 the floor people, just in the chats about our</p> <p>14:12:25 8 positioning in there, that they were getting paid</p> <p>14:12:27 9 to sell the product.</p> <p>14:12:30 10 Q The salespeople were?</p> <p>14:12:31 11 A The salespeople on the floor, by</p> <p>14:12:34 12 Orlimar, which we weren't doing at the time, and I</p> <p>14:12:37 13 don't think anyone else other than brands you'd</p> <p>14:12:39 14 never heard of were being spiffed or compensated</p> <p>14:12:43 15 on the floor. So that was a primary issue that I</p> <p>14:12:47 16 was trying to address at the time.</p> <p>14:12:50 17 Q Was there anything else that was a</p> <p>14:12:52 18 significant issue at the time?</p> <p>14:12:56 19 A No. I think we were closing in on</p> <p>14:12:58 20 the time, though, certainly toward the end of '98,</p> <p>14:13:03 21 where we had some stores closing. We had</p> <p>14:13:05 22 retailers closing, and we were -- not we as Adams</p> <p>14:13:09 23 were losing accounts, but I think in general we</p> <p>14:13:13 24 were all losing accounts because there was a</p>	<p>14:14:30 1 Q Do -- in terms of the concerns that</p> <p>14:14:33 2 you had at the time of this memo, the competition,</p> <p>14:14:37 3 the Orlimar issues that you were just talking</p> <p>14:14:39 4 about --</p> <p>14:14:39 5 A Uh-huh.</p> <p>14:14:40 6 Q -- did you report any of those --</p> <p>14:14:41 7 those concerns to Mark Gonsalves since he was your</p> <p>14:14:49 8 supervisor?</p> <p>14:14:49 9 A Yes. We had some discussions on</p> <p>14:14:50 10 that, yes.</p> <p>14:14:51 11 Q And so why -- why would you have</p> <p>14:14:53 12 discussed that issue with him, as I believe your</p> <p>14:14:55 13 testimony was that you didn't really talk about</p> <p>14:14:56 14 the Costco issue with him or you don't recall</p> <p>14:14:59 15 having discussions about that?</p> <p>14:15:00 16 A Again, it was much -- it would have</p> <p>14:15:02 17 been much more of a pertinent issue at the time to</p> <p>14:15:05 18 talk about Orlimar and the competition and -- than</p> <p>14:15:10 19 this, which at the time was a different issue in</p> <p>14:15:13 20 my world.</p> <p>14:15:22 21 Q And based on your job duties when you</p> <p>14:15:25 22 were the regional account coordinator supervisor,</p> <p>14:15:28 23 would you have been involved in any conversations</p> <p>14:15:31 24 with Mark Gonsalves about serialization, if they</p>

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<p>14:19:56 1 buying decision. They just might not have the</p> <p>14:20:00 2 clientele to -- you know, like I said, buy a big</p> <p>14:20:03 3 jar of mayonnaise and a golf club at the same</p> <p>14:20:08 4 time.</p> <p>14:20:09 5 Q So -- at the time of this e-mail in</p> <p>14:20:11 6 Exhibit 69, you're talking about other retailers</p> <p>14:20:15 7 that have issues with their clubs being in Costcos</p> <p>14:20:19 8 as well?</p> <p>14:20:19 9 A Other manufacturers.</p> <p>14:20:20 10 Q Right. Right. Sorry.</p> <p>14:20:22 11 A It's okay.</p> <p>14:20:23 12 Q Did you know at the time anything</p> <p>14:20:26 13 more specific than you put in this e-mail about</p> <p>14:20:28 14 what they were doing to combat gray marketing?</p> <p>14:20:34 15 A No, other than what I put in there.</p> <p>14:20:36 16 Q Okay. And do you know now what -- is</p> <p>14:20:38 17 there anything different that people -- other --</p> <p>14:20:42 18 other manufacturers do to combat gray marketing?</p> <p>14:20:46 19 Is there any other way to do it besides marking</p> <p>14:20:50 20 the products?</p> <p>14:20:54 21 A That's still the main way to do it.</p> <p>14:20:56 22 And I mean, some don't do it and choose not to.</p> <p>14:21:00 23 I -- I can't prove it, but I think Taylor Made has</p> <p>14:21:02 24 been selling Costco since this e-mail, so</p>	<p>14:22:14 1 Q And when did Orlimar really start</p> <p>14:22:31 2 having this effect on Adams Golf's market, as far</p> <p>14:22:31 3 as you know?</p> <p>14:22:31 4 A They were -- well, they're a West</p> <p>14:22:31 5 Coast company, so out west, you know, they've been</p> <p>14:22:31 6 selling a lot of golf clubs since the '60s. But</p> <p>14:22:32 7 the TriMetal, which was our competitor, I believe</p> <p>14:22:36 8 January of '98 was when they got significant</p> <p>14:22:43 9 sell-through out west, or significant presence in</p> <p>14:22:45 10 the stores where we would notice it</p> <p>14:22:53 11 Q And why would an account complain</p> <p>14:22:56 12 about double shipping? We talked a little bit</p> <p>14:22:59 13 about double shipping earlier.</p> <p>14:23:02 14 A Well, you'd complain just for the</p> <p>14:23:04 15 same reason if you ordered something and it showed</p> <p>14:23:06 16 up and you were happy about it, and then it came</p> <p>14:23:11 17 again. There's a number of reasons. You'd</p> <p>14:23:16 18 complain either A, you didn't order it; or B, you</p> <p>14:23:20 19 did order it and had it on a prebook, and the</p> <p>14:23:23 20 order came and for some reason your business or</p> <p>14:23:26 21 your sell-through has slowed down, you would call</p> <p>14:23:29 22 the company to say: Hey, it's a prebook. I don't</p> <p>14:23:32 23 want it. You're double shipping me.</p> <p>14:23:35 24 Q And what's a -- what's a prebook?</p>
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<p>14:21:06 1 obviously I don't think they think it hurts their</p> <p>14:21:10 2 sales</p> <p>14:21:11 3 Q Uh-huh.</p> <p>14:21:11 4 A And that's the only one I noted that</p> <p>14:21:13 5 I thought was selling to them.</p> <p>14:21:18 6 Q And what effect, if any, would</p> <p>14:21:21 7 competition like you were talking about from</p> <p>14:21:23 8 Orlimar, would that effect be on Costco's</p> <p>14:21:27 9 sell-through of Adams golf clubs?</p> <p>14:21:30 10 A It would have a negative effect on</p> <p>14:21:33 11 sell-through everywhere because the issue with</p> <p>14:21:37 12 Orlimar, the competitive nature of Orlimar was</p> <p>14:21:40 13 that it was the exact same golf club. We had one</p> <p>14:21:44 14 product, one SKU, one loft. They came out with a</p> <p>14:21:48 15 club identical. We're not talking about a driver</p> <p>14:21:51 16 versus a putter. They came out with a trump</p> <p>14:21:54 17 utility club that was the exact same purpose that</p> <p>14:21:57 18 ours existed.</p> <p>14:21:59 19 So if they had good marketing</p> <p>14:22:02 20 and if they were getting the consumer to look at</p> <p>14:22:03 21 it, which it's obvious they were, it's a very</p> <p>14:22:08 22 simple decision. You're not going to buy an Adams</p> <p>14:22:11 23 if you're going to buy an Orlimar. You can't have</p> <p>14:22:14 24 both.</p>	<p>14:23:37 1 Can you explain what that means?</p> <p>14:23:38 2 A Just a way to take orders when a club</p> <p>14:23:44 3 is selling through, you know, you're going to go</p> <p>14:23:46 4 ahead and book it out so the retailer -- you don't</p> <p>14:23:49 5 have to go through the sales process every time</p> <p>14:23:51 6 you want to put product in your shop.</p> <p>14:23:54 7 So if I'm selling 24 clubs a</p> <p>14:23:56 8 month at my store, it's wasting both of our times</p> <p>14:24:01 9 to talk every month and order 24 more clubs. Just</p> <p>14:24:04 10 book me out for the next six months for 24 clubs</p> <p>14:24:07 11 so I know I have them coming. And that's what a</p> <p>14:24:11 12 prebook is.</p> <p>14:24:13 13 Q And so the retail account would agree</p> <p>14:24:16 14 to have a set -- standing order basically?</p> <p>14:24:19 15 A Yes.</p> <p>14:24:19 16 Q And then it would just automatically</p> <p>14:24:24 17 ship without them having to call in?</p> <p>14:24:25 18 A Correct.</p> <p>14:24:26 19 Q At whatever time frame was set?</p> <p>14:24:28 20 A Correct. It's just an order for a</p> <p>14:24:30 21 future date.</p> <p>14:24:31 22 Q And so then, what you were just</p> <p>14:24:32 23 saying about double shipping is if they've done</p> <p>14:24:35 24 that and they've booked out into the future, this</p>

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## SCOTT BLEVINS

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<p>14:24:38 1 standing order, but then all of a sudden they stop  14:24:42 2 selling clubs?  14:24:43 3 A Their sell-through slows down, all of  14:24:45 4 a sudden you don't need 24, you just need 12. You  14:24:49 5 know, I would call in to the company and say:  14:24:52 6 Hey, I didn't order this. You just shipped it. I  14:24:56 7 only want half of it. Give me an RA to send half  14:24:59 8 of it back.  14:25:00 9 Q Even if you had this standing order  14:25:02 10 with your salesperson?  14:25:02 11 A Sure I probably wouldn't do it. I  14:25:05 12 would probably get my warehouse person or somebody  14:25:06 13 to call in. But that's one reason.  14:25:10 14 The others are obviously, like  14:25:12 15 I mentioned before, credit issues. You know, if  14:25:14 16 your store is going downhill and you just want to  14:25:17 17 clean your books, this is just one of the things  14:25:19 18 the retailer uses to try to get out of paying a  14:25:23 19 bill. It's one of the methods. There's many.  14:25:29 20 MS BRANNEN: I think that's  14:25:29 21 all the questions I have right now.  14:25:33 22 Oh, let me -- let me ask one  14:25:35 23 thing to clarify.  14:25:38 24 Q (By Ms. Brannen) In a prebook</p>	<p>14:26:30 1 have any more questions at this point.  14:26:33 2 MR. MARA: That concludes the  14:26:35 3 deposition.  4 (Off the record at 2:26 p.m.)  5 -----  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24</p>
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<p>14:25:39 1 situation like that, would the retailer know that  14:25:42 2 he had this standing order? That's kind of what  14:25:45 3 we were just talking about.  14:25:46 4 A Yes.  14:25:47 5 Q You're saying you might not call, but  14:25:48 6 you might have your warehouse person call. Would,  14:25:50 7 generally, whoever did the ordering for the  14:25:53 8 retailer know that they had this standing order?  14:25:56 9 A Yes. The -- whoever the buyer would  14:25:59 10 be.  14:26:00 11 Q They would know?  14:26:01 12 A And it's up to them to communicate it  14:26:03 13 to the rest of their team. So if they communicate  14:26:06 14 it to the warehouse, the receiving person, then  14:26:09 15 they know. But you know, occasionally, that  14:26:12 16 wouldn't happen, so someone in receiving might  14:26:14 17 say: I'm not supposed to have this order.  14:26:17 18 Q Right.  14:26:17 19 A And just refuse it.  14:26:20 20 Q Okay.  14:26:20 21 A But generally, yes, everyone is aware  14:26:22 22 of a prebook because it's on the books.  14:26:23 23 Q Okay.  14:26:24 24 MS BRANNEN: I think I don't</p>	<p>1 STATE OF TEXAS X  2 COUNTY OF DALLAS X  3  4 I, Jamie K. Israelow, a  5 Certified Shorthand Reporter duly commissioned and  6 qualified in and for the State of Texas,  7 Registered Professional Reporter, Certified  8 Realtime Reporter and Certified LiveNote Reporter,  9 do hereby certify that there came before me on the  10 3rd day of May at Akin Gump Strauss Hauer &amp; Feld,  11 LLP, located at 1700 Pacific Avenue, Suite 4100,  12 in the city of Dallas, County of Dallas, State of  13 Texas, the following named person, to-wit: SCOTT  14 BLEVINS, who was duly sworn to testify the truth,  15 the whole truth, and nothing but the truth of  16 knowledge touching and concerning the matters in  17 controversy in this cause; and that he was  18 thereupon examined upon oath and his examination  19 reduced to typewriting under my supervision; that  20 the deposition is a true record of the testimony  21 given by the witness, and signature of the witness  22 is to be before any notary public and returned  23 within 30 days from date of receipt of transcript.  24 I further certify that</p>

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BREWER

CHIP BREWER

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED  
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ  
\_\_\_\_\_ X

ORAL DEPOSITION OF CHIP BREWER

Tuesday, May 2, 2006

The oral deposition of Chip Brewer was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 11:03 a.m. to 2:44 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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## CHIP BREWER

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<p>11:10:08 1 place?</p> <p>11:10:09 2 A I don't recall when the interview</p> <p>11:10:10 3 took place.</p> <p>11:10:10 4 Q Okay. But sometime in the summer of</p> <p>11:10:12 5 1998?</p> <p>11:10:12 6 A I believe so.</p> <p>11:10:13 7 Q So it's reasonable to say that the --</p> <p>11:10:18 8 from first learning of the opportunity to being</p> <p>11:10:20 9 hired was two months' time?</p> <p>11:10:21 10 A It was a short period of time.</p> <p>11:10:23 11 Q Okay.</p> <p>11:10:23 12 A I don't know whether -- what the time</p> <p>11:10:25 13 period was.</p> <p>11:10:28 14 Q Are you able to recall what, if any,</p> <p>11:10:32 15 problems or -- problems were presented with the</p> <p>11:10:36 16 job at Adams Golf?</p> <p>11:10:38 17 A At the interview, Neil?</p> <p>11:10:40 18 Q Yeah.</p> <p>11:10:41 19 A At the interview, we talked about</p> <p>11:10:44 20 opportunities, mostly, I believe, but again, I</p> <p>11:10:48 21 don't recall the specifics of the interview.</p> <p>11:10:49 22 Q Do you recall -- were you introduced</p> <p>11:10:51 23 to anyone else then other than Barney Adams and</p> <p>11:10:55 24 Mr. Murtland?</p>	<p>11:12:18 1 in a transition mode for a majority of September.</p> <p>11:12:25 2 Q And did there come a time that that</p> <p>11:12:28 3 transition mode ended?</p> <p>11:12:29 4 A Yes.</p> <p>11:12:29 5 Q And when was that?</p> <p>11:12:30 6 A Sometime end of Septemberish. Now,</p> <p>11:12:34 7 exactly whether it was the last day of September</p> <p>11:12:36 8 or not, I don't recall.</p> <p>11:12:37 9 Q And why did that transition mode come</p> <p>11:12:40 10 to an end?</p> <p>11:12:41 11 A Mark left the company.</p> <p>11:12:51 12 Q And why did Mark Gonsalves leave the</p> <p>11:12:58 13 company?</p> <p>11:12:58 14 A He had accepted a position with a ski</p> <p>11:13:00 15 company, I believe.</p> <p>11:13:03 16 Q Are you able to recall what company?</p> <p>11:13:09 17 A No.</p> <p>11:13:17 18 Q When you started at Adams Golf and</p> <p>11:13:19 19 began this transitional period, did you know that</p> <p>11:13:24 20 Mark Gonsalves was leaving the company?</p> <p>11:13:25 21 A Yes.</p> <p>11:13:25 22 Q And when did you learn that</p> <p>11:13:28 23 information?</p> <p>11:13:29 24 A I knew that Mark was leaving the</p>
Page 11	Page 13
<p>11:10:58 1 A I don't recall being introduced to</p> <p>11:11:00 2 anybody other than Barney and Dick.</p> <p>11:11:06 3 Q Now -- and you remain with the</p> <p>11:11:07 4 company today?</p> <p>11:11:08 5 A Yes.</p> <p>11:11:08 6 Q And your current title is?</p> <p>11:11:11 7 A President and CEO.</p> <p>11:11:21 8 Q Okay. Are you able to recall what</p> <p>11:11:22 9 day you started at Adams Golf? You said it was</p> <p>11:11:26 10 September of '98?</p> <p>11:11:28 11 A I believe it was September 8th of</p> <p>11:11:32 12 1998.</p> <p>11:11:35 13 Q Okay. When you first took over your</p> <p>11:11:43 14 original position as vice president of sales and</p> <p>11:11:48 15 marketing, what, if anything, did you do?</p> <p>11:11:51 16 A Just for clarification, I believe my</p> <p>11:11:53 17 first position was vice president of sales. It</p> <p>11:11:56 18 did not initially include marketing.</p> <p>11:11:59 19 Q Okay. Vice president of sales.</p> <p>11:12:00 20 When you hit the ground at</p> <p>11:12:02 21 Adams Golf, what did you do?</p> <p>11:12:03 22 A When I hit the ground at Adams Golf,</p> <p>11:12:06 23 I trained under Mark Gonsalves. Mark Gonsalves</p> <p>11:12:10 24 was still with the company, and I worked under him</p>	<p>11:13:30 1 company at the interview.</p> <p>11:13:41 2 Q Okay. What were you told, I guess by</p> <p>11:13:44 3 Barney, about the circumstances of Mark</p> <p>11:13:47 4 Gonsalves's departure at the end of the interview?</p> <p>11:13:51 5 A I was told he was leaving to join</p> <p>11:13:52 6 that ski company.</p> <p>11:13:56 7 Q Was there any other discussion of</p> <p>11:13:59 8 Mark Gonsalves at the interview between yourself</p> <p>11:14:01 9 and Barney Adams?</p> <p>11:14:03 10 A I don't recall the interview</p> <p>11:14:04 11 Q So same answer as to Murtland, then?</p> <p>11:14:11 12 A Correct.</p> <p>11:14:12 13 Q You've described it as a transitional</p> <p>11:14:15 14 or transitory period. I can't remember the term.</p> <p>11:14:17 15 Can you describe what that period involved? What</p> <p>11:14:20 16 were you doing?</p> <p>11:14:22 17 A I was -- you know, I visited</p> <p>11:14:26 18 customers with Mark and Mark introduced me to</p> <p>11:14:31 19 staff and Mark briefed me on the nature of my</p> <p>11:14:39 20 responsibilities and --</p> <p>11:14:43 21 Q When you say you visited customers,</p> <p>11:14:47 22 where were those customers located?</p> <p>11:14:50 23 A I believe -- there were several</p> <p>11:14:52 24 customers that we visited. I specifically recall</p>

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<p>11:24:22 1 Q Are you able to recall who the strong 11:24:25 2 performers were? 11:24:26 3 A Yes. 11:24:26 4 Q Who were they? 11:24:28 5 A Two strong performers are Debbie 11:24:31 6 Chandler and Jay Greaney. 11:24:44 7 Q Now, how were sales responsibilities 11:24:46 8 divided among members of the inside sales staff? 11:24:51 9 Was it geographically or by customer or -- 11:24:56 10 A I don't recall, Neil. I think -- I 11:25:01 11 don't recall whether it was -- I don't recall 11:25:04 12 exactly how it was divided at that point. 11:25:07 13 Q And are you able to recall what 11:25:12 14 customers or -- or regions or divisions Debbie 11:25:16 15 Chandler or Jay Greaney were selling to at that 11:25:20 16 time? 11:25:20 17 A I know Debbie Chandler sold Family 11:25:26 18 Golf, and I do not recall any specifics of who 11:25:31 19 Jay's customers were. 11:25:42 20 Q And is Debbie Chandler still with the 11:25:44 21 company? 11:25:44 22 A No. 11:25:46 23 Q Do -- are you able to recall when she 11:25:47 24 left the company?</p>	<p>11:27:01 1 aggressive sales tactics? 11:27:04 2 A I don't recall specifically, but you 11:27:07 3 know, whether it was -- I don't recall the 11:27:10 4 specifics of when I had that conversation or those 11:27:15 5 conversations with Jay. 11:27:16 6 Q Was it prior to Gonzalves's departure 11:27:20 7 from the company or subsequent to Gonzalves's 11:27:25 8 departure from the company? 11:27:26 9 A It would have been after Gonzalves's 11:27:29 10 departure with the company. 11:27:32 11 Q I'm just trying to keep up. 11:27:46 12 What were the aggressive sales 11:27:53 13 tactics? 11:27:54 14 A We received complaints from customers 11:28:00 15 regarding Jay. If I recall, the customer would 11:28:11 16 not have ordered the same quantity product or 11:28:14 17 would not have ordered product, and then the 11:28:20 18 orders would somehow be entered into the system. 11:28:28 19 Q Who did you receive those customer 11:28:30 20 complaints from? 11:28:30 21 A I don't recall the specifics. 11:28:32 22 Q How many did you receive? 11:28:33 23 A I don't recall. It would -- you 11:28:35 24 know, it was a -- a few. One or two is my guess.</p>
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<p>11:25:49 1 A I believe Debbie left in '99 or 2000. 11:25:59 2 Q And do you know why Debbie Chandler 11:26:04 3 left? 11:26:04 4 A I know she lives in Austin now with 11:26:06 5 her husband down there. I believe she left 11:26:13 6 because he -- his business moved there. 11:26:16 7 Q And Jay Greaney is no longer with the 11:26:19 8 company? 11:26:20 9 A That's correct. 11:26:20 10 Q Are you able to recall when he left 11:26:22 11 the company? 11:26:22 12 A I believe Jay left in the fall of 11:26:26 13 1998. 11:26:27 14 Q And why did Jay Greaney leave? 11:26:30 15 A He resigned. 11:26:31 16 Q And do you know what was the reason 11:26:33 17 for his resignation? 11:26:35 18 A We asked for Jay's resignation. 11:26:40 19 Q Why did you ask for Jay Greaney's 11:26:43 20 resignation? 11:26:43 21 A I was -- at the time, when I joined 11:26:46 22 the company, I became aware of some aggressive 11:26:49 23 sales tactics that I wasn't comfortable with. 11:26:58 24 Q When did you become aware of the</p>	<p>11:28:49 1 Q Did you personally receive those 11:28:52 2 complaints from customers? 11:28:53 3 A I don't think I did. 11:28:56 4 Q Who, if anyone -- if it wasn't you, 11:29:00 5 who, if anyone, would have received those 11:29:05 6 complaints? 11:29:05 7 A I don't know. It -- it somehow would 11:29:07 8 have come up to me from the -- somewhere in the 11:29:12 9 organization, but where it would have come through 11:29:14 10 is not clear. It could have come from several 11:29:18 11 paths. Eventually I would have heard about it 11:29:24 12 Q What did you do when you first heard 11:29:28 13 of these customer complaints, that this was going 11:29:32 14 on? 11:29:32 15 A I spoke with, you know, Jay regarding 11:29:36 16 the issue. 11:29:43 17 Q And what did you say to Jay Greaney? 11:29:46 18 A I don't recall the specifics of the 11:29:50 19 conversation. 11:29:50 20 Q Where was the meeting? 11:29:51 21 A I don't recall that. 11:29:52 22 Q Was it on campus at Adams Golf, or 11:29:55 23 did it take place outside the physical -- 11:29:58 24 A I assume it was on campus only</p>

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<p>11:30:00 1 because I do not recall having any off-campus  11:30:04 2 meetings.  11:30:04 3 Q Who else was present at the meeting?  11:30:06 4 A I don't recall the meeting.  11:30:07 5 Q How many meetings took place --  11:30:08 6 A Don't recall.  11:30:09 7 Q -- between you and Jay Greaney?  11:30:12 8 Are you familiar with the term  11:30:13 9 "double shipping"?  11:30:19 10 A I've heard the term before.  11:30:23 11 Q And what do you understand that term  11:30:23 12 to mean?  11:30:23 13 A I don't -- I've heard it being used  11:30:25 14 in different contexts, so it has potentially  11:30:29 15 different meanings.  11:30:31 16 Q What's the first meaning you  11:30:33 17 understand it to be?  11:30:35 18 A One of the meanings could be that  11:30:40 19 you -- an order would in some way, shape, or form,  11:30:46 20 be entered into the system two times, an actual  11:30:52 21 order, and therefore, the customer receives twice  11:30:59 22 the desired amount of product. That happens from  11:31:01 23 time to time in -- in a lot of businesses.  11:31:10 24 Q Was that happening here with Jay</p>	<p>11:32:34 1 not valid customer orders, and the --  11:32:44 2 Q Can you explain what you mean by  11:32:46 3 that?  11:32:46 4 A Well, if the customer hasn't  11:32:48 5 confirmed the order, and so there may be an  11:32:51 6 indication that the order may become live, and the  11:32:55 7 salesman might jump the gun and enter the order  11:32:59 8 without a -- a confirmation or a final  11:33:04 9 confirmation from the customer.  11:33:08 10 Q Can you explain the confirmation  11:33:10 11 process? What -- in a -- in a proper sale, how --  11:33:18 12 how does that process work?  11:33:19 13 A It varies by the setting, you know,  11:33:21 14 what that confirmation process would be, I think.  11:33:24 15 Q Well, if I were just to say: Inside  11:33:28 16 sales succeeds --  11:33:29 17 A Right.  11:33:30 18 Q -- in contacting a green-grass  11:33:32 19 account or a retailer, and succeeds in arranging  11:33:38 20 for the sale of 40 clubs --  11:33:41 21 A It would simply be --  11:33:42 22 MR. BESSETTE: Hold on. This  11:33:43 23 is still in '98?  11:33:45 24 MR. MARA: Yeah. I'm sorry.</p>
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<p>11:31:11 1 Greaney's aggressive sales tactics?  11:31:19 2 MR. BESSETTE: The way you  11:31:19 3 just defined it?  11:31:22 4 MR. MARA: Yeah. Yeah.  11:31:23 5 A The -- you know, I don't know for a  11:31:34 6 fact whether that happened with -- with Jay or  11:31:41 7 not. You know, there were some concerns about  11:31:44 8 Jay's business practice, which included double  11:31:48 9 shipment.  11:31:48 10 The -- you know, this happened  11:31:51 11 a long time ago. I remember the context of why  11:31:56 12 Jay was asked to resign, was regarding, you know,  11:32:02 13 sales practices, but whether there were specific  11:32:07 14 double-shipment issues or not, I can't recall.  11:32:13 15 Q (By Mr. Mara) I believe you  11:32:14 16 testified that you understand double shipping to  11:32:17 17 mean different things in different contexts, and  11:32:19 18 you just described --  11:32:21 19 A One.  11:32:21 20 Q -- your first understanding  11:32:22 21 What is another context of  11:32:26 22 double shipping?  11:32:26 23 A I've heard people using double  11:32:29 24 shipment for -- also for entering orders that are</p>	<p>11:33:47 1 Everything is 1998.  11:33:48 2 A September/October '98 specifically,  11:33:51 3 because when I was with the company, my  11:33:53 4 understanding is if the customer, you know,  11:33:56 5 verbally confirmed that they wanted to place that  11:33:58 6 order, it was --  11:33:59 7 Q (By Mr. Mara) That was sufficient?  11:34:00 8 A That's my understanding.  11:34:04 9 Q Okay. So then, in your second  11:34:07 10 understanding of double shipping, perhaps sales  11:34:10 11 are logged without that type of either verbal or  11:34:13 12 written confirmation from the customer?  11:34:15 13 A Yes.  11:34:15 14 Q In September or the fall of 1998, was  11:34:24 15 it predominantly verbal confirmations or was there  11:34:29 16 a system for written confirmations? I don't know.  11:34:33 17 A I believe, it was predominantly  11:34:35 18 verbal.  11:34:35 19 Q Was Jay Greaney engaging in this  11:34:39 20 second type of double shipping at the time?  11:34:41 21 A We had heard of one -- at least one  11:34:48 22 customer complaint regarding that.  11:34:50 23 Q Who was that customer?  11:34:52 24 A I don't recall.</p>

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<p>11:34:52 1 Q How did you learn of that customer 11:34:55 2 complaint? 11:34:55 3 A I don't recall. 11:35:01 4 Q Who, if anyone else, did you discuss 11:35:05 5 Jay Greaney's aggressive sales tactics with? 11:35:08 6 A I discussed it with many people, 11:35:11 7 including human resources, Jay, you know, Mark, 11:35:21 8 you know, various folks in the organization, Jay's 11:35:24 9 direct supervisors, which was Craig Parrish was 11:35:29 10 one. I do not know -- he had another direct boss 11:35:34 11 between him and Craig, and I don't recall who that 11:35:36 12 was. 11:35:36 13 Q Did you discuss it with Barney Adams? 11:35:44 14 A Yes. 11:35:52 15 Q Did any members of the inside sales 11:35:55 16 staff complain about Jay Greaney's sales tactics 11:35:59 17 at that time? 11:36:09 18 A I don't recall I don't recall 11:36:15 19 anybody complaining about Jay Greaney's sales 11:36:19 20 tactics at that time within the inside sales 11:36:24 21 staff. 11:36:24 22 Q What, if any, other concerns did you 11:36:26 23 have about Jay Greaney at that time, in the fall 11:36:30 24 of 1998?</p>	<p>11:37:55 1 who that was. There were three teams, I believe, 11:38:00 2 of which Ed Hunt, I mentioned, and Roger Wilde 11:38:05 3 were team leaders. There was somebody else and I 11:38:08 4 can't recall and I don't remember where Jay fit 11:38:10 5 into that. 11:38:10 6 Q Okay. But the normal chain of 11:38:12 7 command, then, would have been inside sales staff 11:38:14 8 to the intermediate level -- 11:38:16 9 A Yes 11:38:17 10 Q -- and then -- 11:38:18 11 A To Craig 11:38:19 12 Q -- up to Craig. 11:38:20 13 And above Craig would have 11:38:22 14 been Mark Gonsalves? 11:38:23 15 A Until Mark's departure. 11:38:29 16 Q Did you discuss Jay Greaney's sales 11:38:32 17 tactics with Mark Gonsalves? 11:38:34 18 A Yes. 11:38:34 19 Q And what, if anything, did Mark 11:38:36 20 Gonsalves say about it? 11:38:36 21 A My recollection is Mark didn't think 11:38:38 22 it was much of an issue. 11:38:43 23 Q Was Gonsalves aware of it prior to 11:38:45 24 you bringing it to his attention?</p>
Page 31	Page 33
<p>11:36:31 1 A I don't recall having any other 11:36:33 2 concerns about Jay Greaney at that time. 11:36:39 3 Q What was the quantity -- oh, I'm 11:36:41 4 sorry. Strike that 11:36:44 5 Do you have any other 11:36:45 6 understanding of the term "double shipping" -- 11:36:48 7 A No. 11:36:48 8 Q -- other than the two contexts you've 11:36:50 9 discussed it in? 11:36:56 10 What was the quantity of clubs 11:36:59 11 involved in this double shipping by Jay Greaney? 11:37:05 12 A My understanding was it was fairly 11:37:07 13 minor, but I don't have a specific number. 11:37:10 14 Q What amount to you would be fairly 11:37:19 15 minor? 11:37:19 16 A Fairly minor depends on the context. 11:37:21 17 My guess, which is a guess, that this was, you 11:37:24 18 know, less than 50 clubs and probably somewhere in 11:37:28 19 the neighborhood of 25 clubs. But "minor" is a 11:37:35 20 very subjective -- 11:37:46 21 Q And Jay Greaney reported directly to 11:37:51 22 Craig Parrish? 11:37:52 23 A You know, I think he reported to 11:37:54 24 somebody between him and Craig, but I don't recall</p>	<p>11:38:47 1 A Yes. 11:38:57 2 Q How was Mark Gonsalves made aware of 11:39:00 3 it? 11:39:00 4 A I believe that, you know, Mark would 11:39:02 5 have become aware of it through the normal course 11:39:05 6 of business, you know, and conversations that 11:39:11 7 happened within the company. 11:39:21 8 Q Well, correct me if I'm wrong. I 11:39:24 9 believe you've testified that no one within the 11:39:26 10 inside sales staff complained about Jay Greaney's 11:39:32 11 activity. 11:39:32 12 A I believe I testified that I don't 11:39:33 13 recall whether they -- 11:39:34 14 Q Okay. 11:39:34 15 A -- testified on -- or whether they 11:39:37 16 complained about Jay's activities or not. 11:39:47 17 Q Okay. But you're confident there 11:39:48 18 were complaints coming into the company from 11:39:51 19 outside from the customers? 11:39:52 20 A I'm not even confident of that. I 11:39:54 21 think the question was: Did Mark talk to me 11:39:56 22 about -- did Mark and I discuss Jay Greaney's 11:40:01 23 performance and business practices, which the 11:40:03 24 answer was yes.</p>

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<p>13:13:34 1 Q But you are aware that that -- a  13:13:37 2 number of reports were prepared by Darl Hatfield  13:13:40 3 in the fall of 1998 on these subjects?  13:13:42 4 A On --  13:13:42 5 Q Fall/winter of 1998?  13:13:44 6 A On what subjects?  13:13:46 7 Q On financial reports or sales reports  13:13:48 8 or a hybrid of the two?  13:13:53 9 A Yes, yeah. I have seen a document  13:13:54 10 that -- that was, I believe, -- I'm assuming it  13:13:59 11 was prepared by Darl --  13:14:00 12 Q Okay  13:14:00 13 A -- that was a -- was financial  13:14:03 14 reporting or -- in that time period  13:14:06 15 Q Okay.  13:14:06 16 A So therefore --  13:14:07 17 Q Because the reason I'm asking, we --  13:14:10 18 we asked for that document. We haven't seen it.  13:14:12 19 MR. BESSETTE: He's talking  13:14:13 20 about periodic financial reports. I don't know --  13:14:16 21 make sure you guys are on the same page.  13:14:19 22 A Yeah, monthly numbers.  13:14:21 23 Q (By Mr. Mara) I'm just explaining  13:14:23 24 I'm not trying to be coy.</p>	<p>13:15:55 1 working with a product that had been in the  13:15:58 2 marketplace since 1996, I believe, so two and a  13:16:02 3 half years. That's a very long period of time for  13:16:08 4 a product to -- to remain vibrant.  13:16:14 5 The -- you know, there --  13:16:17 6 there were a whole myriad of issues that in  13:16:21 7 hindsight, I think, contributed to that  13:16:26 8 market-share erosion that occurred at that point  13:16:27 9 in time.  13:16:28 10 Q And the gray marketing situation at  13:16:33 11 Costco being one of those myriad issues?  13:16:36 12 A Gray marketing or product being at  13:16:41 13 Costco was clearly an issue. That became  13:16:46 14 increasingly clear, but I don't have the feel that  13:16:53 15 it was a dominant issue, nor do I have the feel  13:16:57 16 that I can give a percentage answer in terms of  13:17:02 17 what it was or was not as a contributing factor.  13:17:06 18 Q When you were confronted with these  13:17:12 19 varying contributors in the market-share decline,  13:17:17 20 is this what -- do you believe this is what Barney  13:17:20 21 Adams was referring to as things that would have  13:17:23 22 inflicted irreparable damage on the company?  13:17:26 23 A I really don't know what Barney was  13:17:28 24 referring to in this note. I'd be speculating on</p>
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<p>13:14:25 1 He produced monthly numbers,  13:14:27 2 but to the best of your recollection, there wasn't  13:14:29 3 a stand-alone, unique, unprecedented report  13:14:36 4 prepared by Darl Hatfield in the fall or early  13:14:38 5 winter or -- fall or winter of 1998?  13:14:42 6 A I don't recall it.  13:14:48 7 Q The market-share decline, what  13:14:50 8 percentage or amount of the market-share decline  13:14:53 9 in 1998 did you attribute to problems with gray  13:14:57 10 marketing or your clubs appearing at Costco?  13:15:03 11 A I can't contribute specific  13:15:07 12 percentages to, you know, any specific category.  13:15:10 13 There were a whole myriad of issues which I think,  13:15:16 14 you know, again, in hindsight, contributed to our  13:15:20 15 loss of market share in the fall of 1998.  13:15:23 16 The competitive launches of  13:15:26 17 the Orlimar product, I think, was a very  13:15:31 18 substantial issue. Callaway, who was the largest  13:15:36 19 equipment manufacturer launched a market called  13:15:39 20 Steel Head that targeted us specifically in the  13:15:41 21 second half, I believe, of 1998.  13:15:45 22 We were -- we had maturing  13:15:48 23 product line at that point, if you -- you know,  13:15:51 24 normal S curve on product life cycles. We were</p>	<p>13:17:33 1 what he might be referring to.  13:17:34 2 Q Did you have a sense at the time in  13:17:35 3 September 1998 that it was a company facing  13:17:38 4 potentially crippling damage in its sales  13:17:40 5 department?  13:17:40 6 A No.  13:17:40 7 Q Did you ever -- was there ever a time  13:17:44 8 that you arrived at that same conclusion that  13:17:48 9 Barney's writing in this letter, that the sales  13:17:52 10 department was facing potentially crippling damage  13:17:52 11 or irreparable damage?  13:17:56 12 A The sales department specifically,  13:17:58 13 no.  13:17:59 14 Q Okay. What, if any, steps did you  13:18:03 15 take at that time to combat this problem with  13:18:06 16 market share and decline?  13:18:08 17 A I don't know whether I fully  13:18:11 18 recognized that issue as well at that point in  13:18:13 19 time as I feel that I do now. Again, I use the  13:18:17 20 term "hindsight." It's difficult, as you know,  13:18:21 21 not to view any context without the knowledge that  13:18:25 22 you currently have  13:18:25 23 But the -- you know, at that  13:18:32 24 point in time, and the point in time you're</p>

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<p>13:29:40 1 it, and it doesn't appear to be covered here in  13:29:42 2 the memo I just read  13:29:46 3 Q After Jay Greaney tendered his  13:29:53 4 resignation, was double shipping ever an issue  13:29:56 5 again in the inside sales department?  13:29:57 6 A Double shipping still happens today.  13:30:00 7 Double shipping happens at times just out of  13:30:04 8 mistakes, you know, which are no honest, you know,  13:30:07 9 goof-ups. So double shipments, yes.  13:30:12 10 Q So it's fair to assume, then, that  13:30:14 11 because he was terminated, Jay Greaney's activity  13:30:17 12 was not considered to be an honest goof-up?  13:30:27 13 A Yes.  13:30:32 14 Q Are you aware of why the inside sales  13:30:36 15 staff would feel that double shipments were  13:30:39 16 quietly endorsed --  13:30:42 17 A No.  13:30:42 18 Q -- at Adams Golf?  13:30:51 19 What problems in management  13:30:53 20 style did Craig Parrish have? I'm citing Item E  13:31:00 21 on this document in the exhibit.  13:31:03 22 MR. BESSETTE: You mean from  13:31:04 23 his perspective?  13:31:06 24 MR. MARA: Yeah.</p>	<p>13:32:25 1 A Barney is very much a  13:32:28 2 stream-of-consciousness guy. He shoots opinions  13:32:32 3 very quickly and often, you know, off-the-cuff,  13:32:37 4 goes to extreme positions. You know, he shared,  13:32:41 5 you know, his perspectives, including concerns as  13:32:46 6 well as goals and opportunities with me. He, you  13:32:53 7 know, didn't have -- he never was wanting to go  13:32:56 8 through or have tons of data behind anything of  13:33:05 9 that.  13:33:05 10 Q Who, if anyone, collaborated with him  13:33:10 11 in researching this background? Do you know?  13:33:15 12 A Before my time I don't know.  13:33:16 13 Q The next sentence, and I quote: As a  13:33:18 14 result, this analysis is the worst performance  13:33:22 15 assessment I've ever written, and that includes  13:33:25 16 all my pre-Adams corporate days.  13:33:34 17 It's reasonable to assume,  13:33:35 18 then, that the relationship between Mark Gonsalves  13:33:38 19 and Barney Adams by August 14th, 1998, had  13:33:43 20 deteriorated significantly?  13:33:44 21 A Barney would shoot from the hip. You  13:33:46 22 know, he -- at any one time, he might, you know,  13:33:52 23 chew somebody out fairly graphically at any point  13:33:55 24 in time. We've all experienced that. He's a</p>
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<p>13:31:06 1 Q (By Mr. Mara) After -- I mean, I --  13:31:07 2 I would assume that any weakness or lack of  13:31:13 3 direction as practiced by Craig Parrish in August  13:31:16 4 of 1998 was -- remained an issue in September of  13:31:19 5 1998?  13:31:20 6 A Craig remained in his position when I  13:31:26 7 took over as inside sales. There were some strong  13:31:29 8 supporters of his within this department; there  13:31:31 9 were some detractors. And the -- you know, the  13:31:36 10 best I recall, Craig remained an employee in good  13:31:40 11 stead with the company until he left at his own  13:31:53 12 volition.  13:31:53 13 Q On the next page, just after Item I,  13:31:57 14 quoting Barney, he says: Here's what I know.  13:32:00 15 I've researched this to the point where I know  13:32:02 16 there is enough truth that A through I have become  13:32:05 17 reality  13:32:09 18 How did Barney go about  13:32:11 19 researching these items?  13:32:13 20 A I don't have any idea  13:32:16 21 Q At no point after you joined the  13:32:18 22 company did he share all of the information that  13:32:21 23 he had obtained and gathered as part of writing  13:32:24 24 this memorandum?</p>	<p>13:33:57 1 passionate individual and, you know, I've already  13:34:03 2 testified I think their relationship was strained.  13:34:06 3 I don't think you can take that from this one  13:34:08 4 specific instance, owing anything too significant.  13:34:11 5 Q Did -- and then following further  13:34:15 6 down, and again quoting: Apparently, we've made a  13:34:18 7 lot of sales that have been falsely reported (as  13:34:22 8 sales) and are little more than consignments.  13:34:25 9 Check July returns and tell me what they'll be  13:34:27 10 during the rest of the year.  13:34:31 11 Do you concur that a lot of  13:34:33 12 sales had been falsely reported as sales and were,  13:34:36 13 in fact, little more than consignments at that  13:34:38 14 time?  13:34:38 15 A No. I would -- from the facts I've  13:34:40 16 seen, I would disagree with that.  13:34:42 17 Q So in your opinion that particular  13:34:44 18 paragraph is wholly inaccurate in this exhibit,  13:34:48 19 or --  13:34:48 20 A In my opinion, that paragraph is --  13:34:50 21 is inaccurate.  13:34:52 22 Q Okay. Did you ever discuss the issue  13:34:54 23 of consignment sales and -- with Barney?  13:35:04 24 A I don't recall specifically</p>

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BROOKS

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED  
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ  
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ORAL DEPOSITION OF SANDRA BROOKS

Friday, June 30, 2006

The oral deposition of SANDRA BROOKS was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 10:38 a.m. to 12:09 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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<p>11:45:30 1 Q And they started complaining, and as  11:45:30 2 you say, they got more and more disgruntled, and  11:45:32 3 it took months, and then at some point they slowed  11:45:34 4 their orders and it stopped altogether?  11:45:37 5 A Yeah.  11:45:37 6 Q And the records of the company and  11:45:40 7 the sales records would reflect all the sales that  11:45:42 8 were made?  11:45:44 9 A Yeah.  11:45:44 10 Q So we could see, presumably, whether  11:45:48 11 anybody actually slowed or stopped?  11:45:50 12 A Yeah, I would guess.  11:46:15 13 MR. MARA: Is now a good time?  11:46:17 14 MR. BESSETTE: Yeah. Let's  11:46:18 15 break.  11:46:18 16 (A recess was taken from  11:56:00 17 11:46 to 11:56.)  11:56:00 18 MR. BESSETTE: Okay. Back on  11:56:05 19 Q (By Mr. Bessette) In the --  11:56:07 20 Ms. Brooks, in the -- again, same time frame we've  11:56:09 21 been talking about, moving into the new building  11:56:12 22 on Plano Parkway, March/April, till the IPO, how  11:56:15 23 many inside salespeople do you think the company  11:56:17 24 had at that time, that you recall?</p>	<p>11:57:14 1 salespeople, did you -- how well did you know  11:57:16 2 other people's accounts? Did you have time to  11:57:18 3 know other salespeople's accounts?  11:57:20 4 A Some of the bigger ones that maybe  11:57:22 5 affect your territory, maybe you would know.  11:57:25 6 Q Uh-huh.  11:57:30 7 A That way.  11:57:31 8 Q Okay. I can see that. Any other  11:57:32 9 way?  11:57:32 10 A Just chatting. Like I'll give you an  11:57:36 11 example that kind of -- like the -- there's a golf  11:57:38 12 club in Pennsylvania called Squires Club. It's a  11:57:43 13 pretty high-end -- when I say high-end, men-only  11:57:47 14 club, and I got to be such good friends with the  11:57:51 15 pro there that he actually sent me a wedding  11:57:54 16 present, and he thanked me when I sent Dr. Jay to  11:57:57 17 his club to buy a golf club.  11:57:58 18 So I told everybody the  11:58:00 19 Dr. Jay story a hundred times. So you know  11:58:03 20 things, if have like a story or something. We  11:58:05 21 knew things about maybe special accounts  11:58:07 22 Q Okay. All right. Good  11:58:16 23 Now, Jay Greaney was the top  11:58:20 24 salesperson at the time?</p>
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<p>11:56:25 1 A 12, maybe I don't remember. I'm  11:56:28 2 trying to think of who all was there. I know it  11:56:31 3 was more than the initial six.  11:56:33 4 Q Uh-huh.  11:56:33 5 A 10, 10, 12, somewhere around there.  11:56:36 6 Q That's your recollection?  11:56:36 7 A I think -- I don't really remember.  11:56:38 8 I'm just trying to think of who the salespeople  11:56:40 9 were, because they were the original six, and then  11:56:45 10 there was like Darin and Andrea and all those  11:56:47 11 people got hired, and the little guy that drove  11:56:51 12 the Jeep. I can't remember his name. I don't  11:56:53 13 remember. I know it was more.  11:56:54 14 Q Okay. And do you remember -- do you  11:56:56 15 remember about the time of the IPO again, so we're  11:56:59 16 in the summer of '98, about how many retail  11:57:02 17 accounts were there overall that the company had?  11:57:03 18 A I don't know.  11:57:04 19 Q No idea?  11:57:05 20 A Huh-uh.  11:57:06 21 Q You don't know if it was 5,000 or  11:57:09 22 10,000 or anything like that?  11:57:11 23 A No.  11:57:11 24 Q With lots of accounts and lots of</p>	<p>11:58:20 1 A Correct  11:58:22 2 MR. MARA: The time being?  11:58:23 3 Q (By Mr. Bessette) The time being,  11:58:24 4 again, it's March/April to --  11:58:26 5 A While Jay was there, best of my  11:58:28 6 recollection, he was usually the top salesperson,  11:58:31 7 so --  11:58:31 8 Q And why was that, in your view?  11:58:33 9 A He was a good salesperson, and he  11:58:36 10 also padded his orders.  11:58:40 11 Q Yeah. So let me explore that a  11:58:42 12 little.  11:58:42 13 Why do you think he padded his  11:58:45 14 orders?  11:58:46 15 A To make more money.  11:58:47 16 Q Let me ask you a better question:  11:58:50 17 How do you know? How do you have the opinion that  11:58:52 18 he padded his orders?  11:58:53 19 A Because my -- I know he had a lot of  11:59:01 20 returns and -- and it was kind of common  11:59:04 21 knowledge.  11:59:04 22 Q Okay. So besides water cooler talk  11:59:06 23 and people not liking Jay for whatever reason --  11:59:08 24 A I never said I didn't like Jay. I do</p>

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<p>11:59:11 1 like Jay</p> <p>11:59:12 2 Q Okay. Let me ask you this in one</p> <p>11:59:14 3 pointed question: Do you have any personal</p> <p>11:59:17 4 knowledge that he actually, as you said, padded</p> <p>11:59:19 5 his numbers?</p> <p>11:59:20 6 A I can't think of anything specific.</p> <p>11:59:23 7 Eight years ago, I probably could have cited</p> <p>11:59:25 8 something pretty specific, but right now, no, I</p> <p>11:59:27 9 can't.</p> <p>11:59:27 10 Q So as you sit here, no personal</p> <p>11:59:29 11 knowledge?</p> <p>11:59:29 12 A That I can remember.</p> <p>11:59:30 13 Q That's all I want to know, is what</p> <p>11:59:32 14 you remember.</p> <p>11:59:32 15 A Yeah. I can't think of anything</p> <p>11:59:34 16 right now. If someone were to jog my memory or</p> <p>11:59:36 17 give me some specific examples, maybe I'd remember</p> <p>11:59:38 18 something, maybe I wouldn't. I don't know.</p> <p>11:59:42 19 Q Okay. You also testified earlier</p> <p>11:59:43 20 about this California store that Jay shipped to.</p> <p>11:59:46 21 A Uh-huh.</p> <p>11:59:47 22 Q So let me understand, are you saying</p> <p>11:59:48 23 that you were out in California and you knew the</p> <p>11:59:51 24 specific address?</p>	<p>12:00:52 1 A I take it is that he is selling them</p> <p>12:00:54 2 to this guy and this guy is probably, I'm</p> <p>12:00:58 3 thinking, Mr. Gray Market guy.</p> <p>12:01:01 4 Q But again, no personal knowledge?</p> <p>12:01:03 5 A No. But it was -- the whole inside</p> <p>12:01:06 6 sales team, including Mark and Craig and everybody</p> <p>12:01:09 7 else, knew about this. We talked about it openly.</p> <p>12:01:13 8 It wasn't some big secret.</p> <p>12:01:15 9 Q So wouldn't that suggest it was</p> <p>12:01:17 10 appropriate and aboveboard, just a little unusual</p> <p>12:01:19 11 and not something sinister?</p> <p>12:01:22 12 A No --</p> <p>12:01:22 13 MR. MARA: Objection to the</p> <p>12:01:23 14 form of the question.</p> <p>12:01:23 15 But answer it. Sorry.</p> <p>12:01:26 16 A No, because didn't Jay get fired?</p> <p>12:01:33 17 Q (By Mr. Bessette) Is that your</p> <p>12:01:33 18 recollection?</p> <p>12:01:33 19 A Yeah, I think he got fired</p> <p>12:01:36 20 eventually. I mean, Jay had a unique way of</p> <p>12:01:41 21 selling clubs, I'll say, and I personally don't</p> <p>12:01:44 22 find it to have been an ethical way to sell clubs.</p> <p>12:01:50 23 Q What do you mean by that?</p> <p>12:01:54 24 A Some people, when you -- you say:</p>
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<p>11:59:52 1 A No. No. No. Other people, such as</p> <p>11:59:54 2 myself -- I was giving you an example of when I</p> <p>11:59:56 3 went to California and I would go look at other</p> <p>11:59:58 4 people, but I do remember him having an account in</p> <p>12:00:04 5 California that did not have a storefront.</p> <p>12:00:07 6 Q Okay.</p> <p>12:00:07 7 A I believe -- I believe maybe he's the</p> <p>12:00:09 8 one who told us. I don't recall. I don't</p> <p>12:00:11 9 remember, but it -- the inside sales team knew</p> <p>12:00:16 10 that Jay had a customer, client, whatever you want</p> <p>12:00:21 11 to call them, in California that did not have a</p> <p>12:00:35 12 storefront.</p> <p>12:00:35 13 I think maybe one of his other</p> <p>12:00:35 14 clients found that out. I'm not really sure</p> <p>12:00:35 15 exactly how it came to light, but that did come to</p> <p>12:00:35 16 light.</p> <p>12:00:35 17 Q Okay. And what did that mean to you?</p> <p>12:00:35 18 Because I don't know what that means.</p> <p>12:00:35 19 A Well, that meant to me: He is</p> <p>12:00:39 20 selling clubs at the wholesale price to some guy</p> <p>12:00:41 21 who doesn't have a store for people to come and</p> <p>12:00:44 22 buy them in.</p> <p>12:00:46 23 Q Okay. So besides that, you don't</p> <p>12:00:49 24 know -- is there any other meaning to that?</p>	<p>12:01:56 1 Okay. I'll take six clubs.</p> <p>12:02:00 2 Send them a dozen. He would</p> <p>12:02:01 3 do that. That was his method. I don't believe</p> <p>12:02:04 4 there's any secret. A person tells me: Send me</p> <p>12:02:08 5 six clubs, I sent them six clubs. So that's what</p> <p>12:02:10 6 I'm talking about.</p> <p>12:02:11 7 Q All right. So let's explore that</p> <p>12:02:13 8 again. Besides the knowledge that you say was</p> <p>12:02:16 9 around the water cooler --</p> <p>12:02:17 10 A Do I have something pinpoint specific</p> <p>12:02:20 11 to document or anything, no, I don't.</p> <p>12:02:21 12 Q So no personal knowledge, no seeing</p> <p>12:02:23 13 an order, knowing that somebody ordered six and --</p> <p>12:02:25 14 A No.</p> <p>12:02:25 15 Q -- seeing that Jay actually shipped</p> <p>12:02:28 16 12?</p> <p>12:02:29 17 A No.</p> <p>12:02:29 18 Q Nothing like that?</p> <p>12:02:29 19 A No.</p> <p>12:02:30 20 Q Just talk around the halls?</p> <p>12:02:32 21 A Yeah.</p> <p>12:02:35 22 Q Okay. Now, you testified earlier</p> <p>12:02:44 23 that -- I think you said Costco. you know, it was</p> <p>12:02:47 24 a big problem for your -- the accounts we've</p>

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12:02:50 1 already talked about --  
 12:02:51 2 A Right.  
 12:02:51 3 Q -- who they were. And that  
 12:02:54 4 eventually, over time, they got so disgruntled  
 12:02:58 5 that they slowed or stopped orders?  
 12:03:00 6 A Right.  
 12:03:00 7 Q Sitting here, looking back on it now,  
 12:03:04 8 so this time frame in '98 --  
 12:03:06 9 A Uh-huh.  
 12:03:07 10 Q -- let's say all of -- let's say that  
 12:03:10 11 same time frame, the April -- March/April, going  
 12:03:13 12 to the new building, to say, the IPO, how -- how  
 12:03:18 13 many clubs -- how many -- how many clubs did  
 12:03:20 14 Costco sell in your territory? Do you have any  
 12:03:24 15 sense?  
 12:03:25 16 A No. I mean, I couldn't tell you. I  
 12:03:27 17 mean, I never went there. I don't know how many  
 12:03:29 18 they had, but according to my clients who told me  
 12:03:33 19 that they had, you know, in the -- a hundred clubs  
 12:03:37 20 or so sitting right there. It was always full and  
 12:03:40 21 it was all freshly stocked, so I'm going to say a  
 12:03:43 22 lot.  
 12:03:43 23 Q A lot.  
 12:03:43 24 A Yeah. I don't have a number to put

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12:03:45 1 on it because I wasn't there. I didn't count  
 12:03:47 2 them. I'm just going by what my people told me  
 12:04:05 3 Q Okay. And you have no reason to  
 12:04:07 4 dispute that whatever the Costco records show what  
 12:04:10 5 their sales were in particular regions, you don't  
 12:04:13 6 have any reason to believe that that wouldn't be  
 12:04:15 7 accurate?  
 12:04:16 8 A No.  
 12:04:25 9 Q Okay. And if -- for example, if  
 12:04:28 10 Costco had showed that in the second quarter of  
 12:04:32 11 1998 -- and again, that's right at the time frame  
 12:04:34 12 we're talking about, April, May, June 1998  
 12:04:37 13 A Uh-huh.  
 12:04:39 14 Q -- in the states of Alaska and Idaho  
 12:04:42 15 and Montana and Oregon and Utah and Washington,  
 12:04:48 16 there were just over 700 clubs sold, does that  
 12:04:52 17 sort of sound accurate to you?  
 12:04:54 18 MR. MARA: Objection, assumes  
 12:04:55 19 facts not in evidence  
 12:04:55 20 But go ahead  
 12:04:57 21 A I figured it would be a lot more than  
 12:04:58 22 that, but I -- I have never been to any of those  
 12:05:04 23 places, so I have no idea. I mean --  
 12:05:06 24 Q (By Mr. Bessette) And that's a good

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12:05:07 1 point. You would have thought it was more because  
 12:05:10 2 it seemed more to you because your customers  
 12:05:13 3 were -- were complaining to you?  
 12:05:15 4 A Uh-huh.  
 12:05:15 5 Q But you don't, as you sit here, know  
 12:05:17 6 how many actual sales were being made in Costco  
 12:05:20 7 and how it was affecting the company overall,  
 12:05:22 8 meaning Adams Golf?  
 12:05:23 9 A Right.  
 12:05:26 10 Q Okay. And would it surprise you to  
 12:05:28 11 learn -- and again, in the same time frame, April,  
 12:05:30 12 May, June of 1998 -- in what Costco calls the  
 12:05:36 13 Southeast region, but it's the states of Alabama  
 12:05:38 14 and Florida, Georgia, Maryland, North Carolina,  
 12:05:41 15 portions of New Jersey -- I don't know why that's  
 12:05:47 16 Southeast, but -- Puerto Rico, South Carolina,  
 12:05:47 17 Tennessee, and portions of Virginia, there were  
 12:05:50 18 only 150 clubs sold by Costco in that time frame?  
 12:05:54 19 MR. MARA: Same objection.  
 12:05:54 20 Q (By Mr. Bessette) Is that surprising  
 12:05:55 21 to you as well?  
 12:05:57 22 A Yeah.  
 12:05:58 23 Q Again, you would have thought it  
 12:05:59 24 would be more?

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12:06:00 1 A Yeah. Maybe they're all sold out of  
 12:06:02 2 Miami, I don't know, but --  
 12:06:05 3 Q Maybe you know, maybe not. We don't  
 12:06:07 4 know.  
 12:06:25 5 When did you -- let's see.  
 12:06:27 6 You said you got married in April?  
 12:06:29 7 A Uh-huh.  
 12:06:30 8 Q 1998?  
 12:06:30 9 A Uh-huh.  
 12:06:31 10 Q You got married to Michael Brooks?  
 12:06:33 11 A Right.  
 12:06:33 12 Q He was an employee of Adams Golf?  
 12:06:35 13 A Right.  
 12:06:35 14 Q And you met him at Adams Golf?  
 12:06:42 15 A Right.  
 12:06:42 16 Q He was in what department?  
 12:06:44 17 A He started off in customer service,  
 12:06:46 18 and then he moved up, and he was like the  
 12:06:49 19 purchasing manager or something like that. He --  
 12:06:52 20 he was in charge of purchasing the components.  
 12:07:00 21 Q We won't be too much longer.  
 12:07:02 22 Purchasing. Who was his boss  
 12:07:06 23 in 1998/1999 time frame? Do you know?  
 12:07:09 24 A Well, Dick Murtland was his boss, and

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**DAVE BROWN - April 27, 2006**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE ADAMS GOLF, INC. Consolidated  
C.A. No. 89-371 KAJ  
SECURITIES LITIGATION Class Action  
Jury Trial Demanded

APRIL 27, 2006  
9:00 O'CLOCK A.M.

The Deposition of DAVE BROWN, taken  
before Ernest Kuemmel, CSR(A), Examiner, pursuant  
to Rules 203, 728, 204(1) of the Court of Queen's  
Bench of Alberta at the offices of Michael C.  
Dunkley, Calgary, Alberta, on the 27th day of  
April, A.D. 2006.

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DAVE BROWN, sworn

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APPEARANCES

## FOR THE PLAINTIFFS:

Elizabeth W. Fox, Ms.  
Berger & Montague, P.C.  
1622 Locust Street  
Philadelphia, Pennsylvania 19103

and

Elizabeth A. Leland, Ms.  
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1201 Third Avenue, Suite 3200  
Seattle, Washington 98101-3052

FOR THE DEFENDANTS:  
(With the exception of the underwriters)

Michelle A. Reed, Ms. and  
Laura Morlaty, Ms.  
Akin Gump Strauss Hauer & Feld LLP  
300 West 6th Street, Suite 2100  
Austin, Texas 78701-3911

## OFFICIAL COURT REPORTER:

Jim L. Morosse, CSR(A) RPR

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DAVE BROWN, sworn, examined by

Ms. Leland:

Q. Thank you for coming today. My name is  
Elizabeth Leland. I'm with the firm of Keller  
Rohrback. I'm one of the attorneys for the  
plaintiffs in this litigation.

Could you state your name for the  
record, please.

A. David Paul Brown.

Q. And could you state your current  
address?

A. Current address is 2228, 1010 Arbour  
Lake Road northwest, Calgary.

Q. And you're formerly affiliated with the  
company by the name of WDC Mackenzie; is that  
correct?

A. That's correct.

Q. Were you involved in the starting or the  
founding of Mackenzie?

A. I was one of the original founders,  
three original founders.

Q. What was your role in founding the  
company?

A. My position in the company was vice  
president of operations. My job was basically Ryan

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Magnussen and myself were the key initial guys who started the company. We started it from scratch. There was nothing.

Q. What was your business experience before starting this company?

A. Previous to that, I had worked at Canada Trust banking here in Calgary, as an assistant bank manager. Previous to that, I had been in retail sales for nine or ten years.

Q. What were your title and duties at WDC Mackenzie beginning in -- as of 1998?

A. In 1998, I was vice president of operations. My duties basically were to oversee -- report directly to Ryan Magnussen, who was the president at the time, and oversee the whole structure of the company, build up certain parts of it, to hire staff and make sure that we were taking care of certain sections of the company.

Q. How did Mackenzie get Adams Golf as a line of products to sell?

A. We were distributing a product called Soft Spikes that originated out of Boyse, Idaho. There was a gentleman named Ferris McMulland who was founder and starter of that company. Ferris was friends with Barney Adams. And we were doing a

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pretty good job for Soft Spikes up in Canada and we were looking for more products, to expand.

So in conversations with Ferris, he had mentioned Barney's name, and he had some interesting products coming out and had set up a time for me to meet with Barney Adams at a golf trade show.

Q. When was that?

A. Trade show would have been in 1996.

Q. And did you meet with Barney at the trade show, and if so, what happened?

A. Yes, I met with Barney Adams, spoke for quite a while, explained where we were from.

He had been up to Canada a few times. He had some friends up in Ontario. Quite liked Canada and was interested in starting his products and expanding it up there, and was interested in working with a company that was established in Canada.

Q. From there, you entered into an arrangement to distribute?

A. That's correct. Barney was very much, those times, a down to earth guy, that he wanted to do things on a handshake rather than formal contracts.

Q. Okay, what was the arrangement between Mackenzie and Adams Golf concerning the distribution of Adams clubs?

A. The arrangement was Barney would -- wanted us to take the product, put it into our line.

We already had sales guys that were going out calling on the golf courses, et cetera. And he wanted us to take the product and introduce it to the existing golf courses and golf shops in Canada.

Q. And sorry, what year did you begin distributing for Adams Golf?

A. For Adams, 199 -- late '96.

Q. And is it correct that you were the only retail distributor in Canada?

A. We're a wholesaler. We're their only wholesaler in Canada, and we distributed to all the retail shops, golf and -- what we call green grass and non-green grass shops. Green grass being all the golf courses; and non-green grass, the Nevada Bob's, the Pro Golfs and those guys.

Q. Are you familiar with the term "gray marketing"?

A. Yes, I am.

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Q. What does that term mean to you?

A. Gray marketing is basically taking the products or getting hold of products that are under a certain distribution system right now, getting hold of the products and distributing them or selling them without going through proper channels, would probably be the easiest way to explain it.

Q. Did you ever discuss gray marketing with Barney Adams?

A. When the gray market problem surfaced, Barney's company was growing tremendously, and we were advised to talk to the people below him, which were Mark Gonzales at first and then later Chris Beebe.

Q. Let me back up. Could you briefly explain the gray marketing situation that you just referenced regarding Canada gray marketing sales?

A. I'm not sure if I understand that.

Q. Can you give me a brief background of the gray market problem that you encountered?

A. The gray market problem we had, had to do with Costco. Costco Canada. We got a call from one of our representatives out of Vancouver that all of a sudden our products were showing up at Costco stores.

## DAVE BROWN - April 27, 2006

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**EXHIBIT NO. 44 - ONE-PAGE DOCUMENT  
HEADED "ADAMS GOLF WDC MACKENZIE  
SALES SINCE 1997" - MCK00297**

Q. MS. LELAND: Mr. Brown, the court reporter has just marked a document as Exhibit No. 44. It's Bates numbered MCK00297.

Are you familiar with this document?

A. Yes, I am.

Q. Do you know who created this document?

A. It was created by Greg Pratt.

Q. Can you tell me what this document represents?

A. The document represents WDC's sale of Adams Golf clubs the year 1997, '98 and first part of — the first half of 1999. The dollar figures that you see are broke down month by month.

Q. Are these in Canadian or U.S. dollars?

A. These would be in Canadian dollars, I do believe. Everything that we worked on was based upon Canadian dollars.

Q. Okay. Going through some of these notes on the right-hand side of the document, can you read me what it says with respect to May of 1998?

A. "Product hit Costco Canada."

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Q. And earlier you testified that the product was in as early as March; is that correct?

A. That's correct.

Q. Could you read what it says by July of 1998?

A. "Customers started returning clubs and didn't want Adams due to Costco. \$200,000 loss due to exchange on the Canadian dollar."

Q. Okay, can you read the comments by the September '98 entry?

A. "Only way they would take clubs is on consignment for Christmas season."

We had quite a stock, and obviously we were trying to get product in there. Some of the stores stay open during the Christmas periods, especially on the west coast, in Vancouver areas.

Q. Can you read to me what it says by, I believe it's November of 1998.

A. "Slow Christmas season. We get filled in on consignment and customers are still reluctant to bring in product."

Q. To the best of your recollection, are

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these notations, were they true at the time?

A. They're accurate. "Product hits Costco in May." It's a little off. I would say that's when a majority of it hit Costco, not the very beginning. The very beginning started, as we said, back in March.

Q. Okay, can we skip ahead of January of 1999?

A. Certainly.

Q. What are the recorded sales there?

A. That's our losses, 77,000.

Q. \$77,000 in losses in January of 1999?

A. That's correct.

Q. Can you read to me the comment next to that entry?

A. "New pricing was introduced." Most customers from Christmas consignment returned the clubs to us. They hadn't sold during the Christmas season. We had put it out on consignment. They returned the clubs.

MS. LELAND: Okay. One more document.

**EXHIBIT NO. 45 - SEPTEMBER 13, 1999  
FAX FROM MARC PUGLIELLI TO WDC  
MACKENZIE DIST. LTD. C/O RYAN**

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**MAGNUSSEN, WITH FOUR ATTACHMENTS -  
MCK00002 TO MCK00006**

Q. MS. LELAND: Being marked as document number 45 is Bates number MCK02107 (sic) through 02111 (sic).

Can you take a look at this document and tell me if you recognize it?

A. Yes, I do.

Q. Can you tell me what this document is?

A. Ryan Magnussen had requested some information from Marc Puglielli with Adams Golf. This is the information that was sent to Ryan. It gave us a breakdown of WDC's sales for 1999, by product.

Q. This came from WDC files; correct?

A. This came from WDC files, as well as Marc Puglielli had sent it up from their system, I believe, directly from Adams Golf.

Q. Could you take a look at the page Bates number MCK02109. That would be the third page. The bar graph.

A. Okay.

Q. Looking at the bar graph, can you tell me what the figures here represent?

A. This is sales from 1998 and 1999,

29

1 starting in January. And it shows --

2 Q. Now, is this sales or is this the amount  
3 of clubs that --

4 A. This is purchases that we made from  
5 Adams Golf.

6 Q. Okay.

7 A. And these numbers coincide with our golf  
8 season.

9 Q. Okay. In looking at the beginning,  
10 starting at '98, the numbers generally trend upward  
11 toward -- through June, 1988; is that correct?

12 A. That's correct.

13 Q. And then what happens in July, '98?

14 A. We sell -- we buy little to none.

15 Q. Why was that?

16 A. We were starting to get our product back  
17 and clients were refusing to purchase it.

18 Q. Why was that?

19 A. Again, going to the product being in  
20 Costco. We had prebooked various different sales.  
21 A certain amount of clubs had come in at certain  
22 times. Whether we had got everything we ordered,  
23 they had shipped to us, we had bought from them;  
24 and all of a sudden everything came to a halt at  
25 the end of June.

30

1 Q. Okay. Were Adams gray market problems  
2 known in the golf community in Canada?

3 A. Yes.

4 Q. Who all in the golf community was aware  
5 of the problems?

6 A. Distributors, golf pros, and golf shop  
7 owners and managers. We have a small network up  
8 here. Some guys work in Ontario and then they're  
9 shipped out to Vancouver, et cetera, so a lot of  
10 people know a lot of people right across the  
11 country.

12 Q. How about in the United States?

13 A. In the United States -- we dealt  
14 directly in Canada. What was happening in the  
15 United States market, we were unaware of. If they  
16 were in the Costcos or the Golf Pros knew about it  
17 down there, we were unaware of it.

18 Q. Had you expected, when you ordered your  
19 clubs from Adams Golf, the club sales would  
20 continue to escalate per the trend we just looked  
21 at in Exhibit 45, through July of '98?

22 A. Yes. I believe we also had a  
23 conversation with Adams Golf earlier in 1998,  
24 January, February, before the gray market incidents  
25 happened, to be able to get their feel that their

1 product was going to be able to keep up with our  
2 demand up here.

3 The numbers that we see here in  
4 February, March, April and May, we expected tha  
5 continue right on into December of that year and  
6 into the following year.

7 Q. It failed to continue into the following  
8 year; correct?

9 A. It failed -- the middle, the end of  
10 June, it was just history.

11 Q. And that was due to the gray marketing,  
12 to the best of your knowledge?

13 MS. REED: Objection. Form.

14 A. That's correct.

15 Q. MS. LELAND: Why do you believe  
16 the sales did not continue to trend upward during  
17 1998?

18 A. I mean, Costco was offering the product  
19 for \$15 over our wholesale. Our guys were buying  
20 them at 235. They were selling them at 299 to 350,  
21 which is normal margins on golf equipment. And the  
22 guy off the street could walk into Costco,  
23 everybody has a Costco membership, and they could  
24 walk in and get it for 250 there. Why would they  
25 go buy it at the golf course for 350?

32

1 Q. Did the Costco problem before the IPO in  
2 July of '98, do any permanent damage to Mackenzie's  
3 sales of Adams products?

4 A. Definitely. We had customers that would  
5 not buy product from us, period. They didn't  
6 want -- we had a new driver coming out, there was  
7 all sorts of things. They didn't want anything to  
8 do with us.

9 MS. LELAND: That is, I think,  
10 all I have. We'll take a quick break.

11 (BRIEF ADJOURNMENT)

12 MS. LELAND: I have no further  
13 questions.

14 MS. REED EXAMINES THE WITNESS:

15 Q. I'm Michelle Reed, and I represent the  
16 defendant Adams Golf and the individual defendants.  
17 The underwriter defendants are represented by  
18 Simpson Thatcher, who is not here today. And  
19 thanks so much for staying with us and being here  
20 so late.

21 Tell me a little bit about  
22 what your role was at the company. You talked  
23 about how you were the operations. I'm just trying  
24 to get a feel for what you do from day-to-day, in  
25 1998.